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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COMMITTEE ON JOBS CANDIDATE
ADVOCACY FUND AND BUILDING
OWNERS and MANAGERS
ASSOCIATION OF SAN FRANCISCO
INDEPENDENT EXPENDITURE
POLITICAL ACTION COMMITTEE,
political action committees organized
under the laws of California and of the
City and County of San Francisco,

Plaintiffs,

vs.

DENNIS J. HERRERA, in his official
capacity as City Attorney of the City and
County of San Francisco, KAMALA K.
HARRIS, in her official capacity as
District Attorney of the City and County
of San Francisco, the SAN FRANCISCO
ETHICS COMMISSION of the City and
County of San Francisco, and CITY AND
COUNTY OF SAN FRANCISCO,

Defendants.

Case No. C 07 3199 JSW

**DEFENDANTS' ANSWER TO
PLAINTIFFS' COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

1 On behalf of themselves and no other persons or entities, defendants Dennis Herrera, City
2 Attorney of the City and County of San Francisco; Kamala D. Harris, District Attorney of the City
3 and County of San Francisco; the San Francisco Ethics Commission; and the City and County of San
4 Francisco ("the City") (collectively "Defendants") hereby answer and respond to Plaintiffs' Complaint
5 for Declaratory and Injunctive Relief ("Complaint"), filed on or about June 18, 2007, as follows:

6 INTRODUCTION

7 1. Answering paragraph 1 of the Complaint, Defendants admit that the contents of the
8 City's Campaign Finance Reform Ordinance (the "Ordinance") speak for themselves. Defendants
9 lack information sufficient to form a belief as to the truth of the remaining allegations contained in
10 paragraph 1, and deny the same on that basis.

11 2. Answering paragraph 2 of the Complaint, Defendants admit that the definitions
12 contained in California Government Code section 82031 speak for themselves. Defendants lack
13 information sufficient to form a belief as to the truth of any remaining allegations contained in
14 paragraph 2, and deny the same on that basis.

15 3. Defendants deny the allegations contained in paragraph 3.

16 4. Answering paragraph 4 of the Complaint, Defendants admit that the contents of San
17 Francisco Campaign & Government Conduct Code ("SF C&GCC") section 1.114(c)(1) speak for
18 themselves. Except as expressly admitted, Defendants deny each and every allegation contained in
19 paragraph 4.

20 5. Answering paragraph 5 of the Complaint, Defendants admit that the contents of SF
21 C&GCC section 1.114(c)(2) speak for themselves. Defendants deny each and every remaining
22 allegation contained in paragraph 5.

23 6. Answering paragraph 6 of the Complaint, Defendants admit that the contents of SF
24 C&GCC section 1.114(c)(2) speak for themselves. Defendants deny each and every remaining
25 allegation contained in paragraph 6.

26 7. Answering paragraph 7 of the Complaint, Defendants admit that the contents of SF
27 C&GCC section 1.114(c)(2) speak for themselves. Defendants deny each and every remaining
28 allegation contained in paragraph 7.

THE PARTIES

16. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 16, and deny the same on that basis.

17. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 17, and deny the same on that basis.

18. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 18, and deny the same on that basis.

19. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 19, and deny the same on that basis.

20. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 20, and deny the same on that basis.

21. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 21, and deny the same on that basis.

22. Answering paragraph 22 of the Complaint, Defendants admit that sections 1.114(c)(1) and (2) of the Ordinance – which speak for themselves – are operative. Defendants lack information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 22, and deny the same on that basis.

23. Answering paragraph 23 of the Complaint, Defendants admit that the Ordinance and the San Francisco Charter, which speak for themselves, set forth the responsibilities of the City Attorney with respect to enforcement of the Ordinance. Defendants further admit that the Complaint names Dennis Herrera in his official capacity as City Attorney as a Defendant in this action. Except as expressly admitted, Defendants deny each and every allegation contained in paragraph 23.

24. Answering paragraph 24 of the Complaint, Defendants admit that the Ordinance and the San Francisco Charter, which speak for themselves, set forth the responsibilities of the District Attorney with respect to enforcement of the Ordinance. Defendants further admit that the Complaint names Kamala D. Harris in her official capacity as District Attorney as a Defendant in this action. Except as expressly admitted, Defendants deny each and every allegation contained in paragraph 24.

25. Answering paragraph 25 of the Complaint, Defendants admit that the Ordinance and the San Francisco Charter, which speak for themselves, set forth the responsibilities of the Ethics Commission with respect to enforcement of the Ordinance and receipt of campaign disclosure reports required by the Ordinance. Except as expressly admitted, Defendants deny each and every allegation contained in paragraph 25.

26. Defendants admit the allegations contained in paragraph 26.

GENERAL ALLEGATIONS

27. Defendants admit the allegations contained in paragraph 27.

28. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 28, and deny the same on that basis.

29. Answering paragraph 29 of the Complaint, Defendants admit that the contents of the Ordinance speak for themselves. Defendants deny each and every remaining allegation contained in paragraph 29.

30. Answering paragraph 30 of the Complaint, Defendants admit that the Board of Supervisors enacted Ordinance 261-73 related to campaign finance in 1973 whose contents speak for themselves. Except as expressly admitted, Defendants deny each and every allegation contained in paragraph 30.

31. Answering paragraph 31 of the Complaint, Defendants admit that various provisions in Ordinance 261-73 were amended and that the amended provisions speak for themselves. Except as expressly admitted, Defendants deny each and every allegation contained in paragraph 31.

32. Answering paragraph 32 of the Complaint, Defendants admit that the San Francisco City Attorney issued a number of public opinions interpreting prior versions of the Ordinance, and admit that those opinions and the terms of the Ordinance as interpreted by the City Attorney speak for themselves. Except as expressly admitted, Defendants deny each and every allegation contained in paragraph 32.

33. Answering paragraph 33 of the Complaint, Defendants admit that the District Court for the Northern District of California issued an order granting a motion for a preliminary injunction on September 8, 1999 in *San Franciscans for Sensible Government, et al. v. Louise Renne, et al.*, No.

1 C-99-2456-CW (N.D. Cal.). Defendants further admit that the order speaks for itself. Except as
2 expressly admitted, Defendants deny each and every allegation contained in paragraph 33.

3 34. Answering paragraph 34 of the Complaint, Defendants admit that the Ninth Circuit
4 Court of Appeals affirmed the order of the district court and that the Ninth Circuit's decision speaks
5 for itself. Except as expressly admitted, Defendants deny each and every allegation contained in
6 paragraph 34.

7 35. Answering paragraph 35 of the Complaint, Defendants admit that the City has
8 amended the Ordinance since 1999 and that those amendments speak for themselves. Except as
9 expressly admitted, Defendants each and every allegation contained in paragraph 35.

10 36. Answering paragraph 36 of the Complaint, Defendants admit that Ordinance sections
11 1.04(a), 1.104(f) and 1.100(b)(7) speak for themselves. Except as expressly admitted, Defendants
12 deny each and every allegation contained in paragraph 36.

13 37. Answering paragraph 37 of the Complaint, Defendants admit that the Ordinance
14 speaks for itself. Except as expressly admitted, Defendants deny each and every allegation contained
15 in paragraph 37.

16 38. Answering paragraph 38 of the Complaint, Defendants admit that the Ordinance
17 speaks for itself. Except as expressly admitted, Defendants deny each and every allegation contained
18 in paragraph 38.

19 39. Answering paragraph 39 of the Complaint, Defendants admit that SF C&GCC
20 Ordinance section 1.114(c)(1) speaks for itself. Defendants lack information sufficient to form a
21 belief as to the truth of any remaining allegations contained in paragraph 39, and deny the same on
22 that basis.

23 40. Answering paragraph 40 of the Complaint, Defendants admit that SF C&GCC
24 Ordinance section 1.114(c)(2) speaks for itself. Defendants lack information sufficient to form a
25 belief as to the truth of any remaining allegations contained in paragraph 40, and deny the same on
26 that basis.

27 41. Answering paragraph 41 of the Complaint, Defendants admit that SF C&GCC
28 Ordinance section 1.114(c)(3) speaks for itself. Defendants lack information sufficient to form a

1 belief as to the truth of any remaining allegations contained in paragraph 41, and deny the same on
2 that basis.

3 42. Answering paragraph 42 of the Complaint, Defendants admit that SF C&GCC
4 Ordinance section 1.104(d) and California Government Code section 82013 speak for themselves.
5 Defendants lack information sufficient to form a belief as to the truth of any remaining allegations
6 contained in paragraph 42, and deny the same on that basis.

7 43. Answering paragraph 43 of the Complaint, Defendants admit that the contents of the
8 Ordinance and Government Code Section 82013 speak for themselves. Defendants lack information
9 sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 43, and
10 deny the same on that basis.

11 44. Defendants lack information sufficient to form a belief as to the truth of the allegations
12 contained in paragraph 44, and deny the same on that basis.

13 45. Answering paragraph 45 of the Complaint, Defendants admit that Section 1.114(c) of
14 the Ordinance speaks for itself. Defendants lack information sufficient to form a belief as to the truth
15 of the remaining allegations contained in paragraph 45, and deny the same on that basis.

16 46. Defendants lack information sufficient to form a belief as to the truth of the allegations
17 contained in paragraph 46, and deny the same on that basis.

18 47. Defendants lack information sufficient to form a belief as to the truth of the allegations
19 contained in paragraph 47, and deny the same on that basis.

20 48. Answering paragraph 48 of the Complaint, Defendants admit that the Ordinance
21 speaks for itself. Defendants lack information sufficient to form a belief as to the truth of the
22 remaining allegations contained in paragraph 48, and deny the same on that basis.

23 49. Answering paragraph 49 of the Complaint, Defendants admit that section 1.114(c) of
24 the Ordinance speaks for itself. Defendants lack information sufficient to form a belief as to the truth
25 of the remaining allegations contained in paragraph 49, and deny the same on that basis.

26 50. Answering paragraph 50 of the Complaint, Defendants admit that any orders issued in
27 *OakPAC v. City of Oakland* and *San Jose Silicon Valley Chamber of Commerce Political Action*
28

1 *Committee v. City of San Jose* speak for themselves. Except as expressly admitted, Defendants deny
2 each and every allegation contained in paragraph 50.

3 51. Defendants admit that the District Court for the Northern District of California issued
4 an order granting a motion for a preliminary injunction on September 8, 1999 in *San Franciscans for*
5 *Sensible Government, et al. v. Louise Renne, et al.*, No. C-99-2456-CW (N.D. Cal.), and that the
6 Ninth Circuit Court of Appeals issued a decision on appeal from that order, and that the contents of
7 the District Court's order and the Ninth Circuit's decision speak for themselves. Except as expressly
8 admitted, Defendants deny each and every allegation contained in paragraph 51.

9 52. Defendants lack information sufficient to form a belief as to the truth of the allegations
10 contained in paragraph 52, and deny the same on that basis.

11 53. Answering paragraph 53 of the Complaint, Defendants admit that the Ordinance
12 speaks for itself. Defendants lack information sufficient to form a belief as to the truth of the
13 remaining allegations contained in paragraph 53, and deny the same on that basis.

14 54. Defendants deny the allegations contained in paragraph 54.

15 55. Defendants deny the allegations contained in paragraph 55.

16 56. Defendants lack information sufficient to form a belief as to the truth of the allegations
17 contained in paragraph 56, and deny the same on that basis.

18 57. Defendants lack information sufficient to form a belief as to the truth of the allegations
19 contained in paragraph 57, and deny the same on that basis.

20 **FIRST CLAIM**

21 58. Defendants reallege and incorporate by reference paragraphs 1 through 57 above.

22 59. Defendants lack information sufficient to form a belief as to the truth of the allegations
23 contained in paragraph 59, and deny the same on that basis.

24 60. Answering paragraph 60 of the Complaint, Defendants deny that the Ordinance
25 violates the First and Fourteenth Amendments to the United States Constitution, either on its face or
26 as implemented and enforced. Defendants lack information sufficient to form a belief as to the truth
27 of the remaining allegations contained in paragraph 60, and deny the same on that basis.

61. Answering paragraph 61 of the Complaint, Defendants admit that it is Defendants' position that SF C&GCC sections 1.114(c)(1) and 1.114(c)(2) are constitutional. Defendants lack information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 61, and deny the same on that basis.

62. Defendants deny the allegations contained in paragraph 62.

63. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 63, and deny the same on that basis.

SECOND CLAIM

64. Defendants reallege and incorporate by reference paragraphs 1 through 57 above.

65. Defendants deny the allegations contained in paragraph 65.

THIRD CLAIM

66. Defendants reallege and incorporate by reference paragraphs 1 through 57 above.

67. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 67, and deny the same on that basis.

68. Defendants deny the allegations contained in paragraph 68.

69. Defendants deny the allegations contained in paragraph 69.

70. Defendants lack information sufficient to form a belief as to the truth of the allegations contained in paragraph 70, and deny the same on that basis.

RESPONSE TO PLAINTIFFS' PRAYER FOR RELIEF

1. Answering the allegations contained in the entirety of Plaintiffs' prayer for relief, Defendants deny that Plaintiffs are entitled to the relief sought, or to any relief.

2. Defendants assert that any allegation of the Complaint not expressly admitted above is hereby denied or is denied on the basis that Defendants lack sufficient information with which to admit or deny any such allegation.

SEPARATE AND DISTINCT AFFIRMATIVE DEFENSES

1. The Complaint fails to state facts sufficient to constitute any claim upon which relief can be granted against Defendants, or any of them.

2. Defendants, and each of them, did not deprive plaintiffs of any right or privilege guaranteed by the Constitution or laws of the United States or California.

3. The Complaint does not present a case or controversy.

4. The Complaint is not ripe for adjudication by this Court.

5. This Court should abstain from hearing and deciding this action.

6. Some or all of Plaintiffs lack standing to maintain this action.

7. The Complaint is barred by all applicable statutes of limitation.

8. The Complaint is barred by the doctrine of laches.

9. The Complaint is barred by the doctrines of estoppel and waiver.

10. Defendants' investigation into the issues raised in the Complaint is at the preliminary stages, and therefore Defendants reserve the right to amend this Answer to add further affirmative defenses when they are discovered.

DEFENDANT'S PRAYER FOR RELIEF

WHEREFORE, Defendants pray that

1. Plaintiffs take nothing by way of this action;

2. The Complaint be dismissed with prejudice and judgment entered in favor of Defendants;

3. Defendants be awarded costs of suit, attorneys' fees and any other relief which the Court deems proper.

Dated: July 9, 2007

DENNIS J. HERRERA
City Attorney
WAYNE SNODGRASS
DANNY CHOU
CHAD JACOBS
ANN O'LEARY
Deputy City Attorneys

By: _____/s/_____
WAYNE SNODGRASS